

**REMARKS**

Claims 37-65 and 67-82 are pending after entry of this response. Claims 38-40, 42-47, 49-53, 55-57, 60-65, 67-75, and 78-82 have been withdrawn from consideration. Claims 37, 41, 48, 54, 58, 59, 76, and 77 have been rejected. Claims 1-36 and 66 have been cancelled without prejudice. Applicants reserve the right to pursue withdrawn and cancelled claims in a divisional or continuing application. Claims 37 has been amended to delete the phrase “an immunogenic portion thereof.” No new matter is presented by the introduction of these claims and amendments. Reconsideration and withdrawal of the below objections and rejections are respectfully requested.

**Response to Rejections under 35 U.S.C. §112, Second Paragraph**

Applicants acknowledge the withdrawal of the rejections under 35 U.S.C. §112, second paragraph of claims 37, 41, 48, 54, 58, 59, 76, and 77.

**Response to Rejections under 35 U.S.C. §112, First Paragraph**

The Examiner has maintained the rejection under 35 U.S.C. 112, first paragraph of claims 58 and 59 for allegedly lacking enablement for a vaccine. Applicants respectfully disagree with the rejection.

Specifically, the Examiner contends that the instant claims read on any recombinant virus having as few as a single nucleic acid molecule inserted which encodes an amino acid sequence of SEQ ID NO:6. Applicants have amended the claims in order to address

the Examiner's concerns. Specifically, independent claim 37 from which claims 58 and 59 depend has been amended to delete "or an immunogenic portion thereof." In view of the amendments, applicants respectfully request reconsideration and withdrawal of the rejections under 25 U.S.C. §112, first paragraph for lack of enablement of claims 58 and 59.

Response to Rejections under 35 U.S.C. §102

The Examiner has maintained the rejections under 35 U.S.C. §102(e) of claims 37, 48, and 58 as being anticipated by U.S. Patent No. 6,723,705 ("the '705 patent") to Freeman, et al.; or under 35 U.S.C. §102(a) and 35 U.S.C. §102(e) by U.S. Patent No. 5,861,310 ("the '310 patent") to Freeman, et al.; or under 35 U.S.C. §102(b) by WO 95/03408 to Freeman, et al. Applicants respectfully disagree.

As argued in the previous response of April 5, 2006, none of the cited publications anticipate the recombinant virus having a foreign nucleic acid encoding a feline CD86 protein having an amino acid sequence of SEQ ID NO:6. Applicants have amended independent claim by deleting the phrase "or an immunogenic portion thereof." As each and every amino acid and element of the claim as presented herein has not been disclosed in the cited publications, none of the cited publications anticipate the claimed invention. Therefore, reconsideration and withdrawal of the §102 rejection are respectfully requested.

Response to Rejections under 35 U.S.C. §103

The Examiner has maintained the rejections of claims 37, 48, 58, and 59 under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 6,723,705 (“the '705 patent”) to Freeman, et al.; U.S. Patent No. 5,861,310 (“the '310 patent”) to Freeman, et al.; or WO 95/03408 to Freeman, et al. in view of D.N. Tripathy (*Advances in Veterinary Medicine*, 41:463-480, 1999). Applicants respectfully disagree with the rejection. However, in order to expedite prosecution and solely for the purpose of early allowance of the instant application, applicants have amended independent claim 37 by deleting the phrase, “or an immunogenic portion thereof.” Applicants believe that this amendment addresses the Examiner’s concerns. Regardless of the teachings of Freeman (the '705 patent, the '310 patent, and WO 95/03408) in view of Tripathy, the combination of the publications do not teach or suggest the claimed invention. Reconsideration and withdrawal of the §103 rejections are respectfully requested.

**CONCLUSION**

Based on the foregoing amendments and remarks, applicants respectfully request reconsideration and withdrawal of the rejection of claims and allowance of this application.

**AUTHORIZATION**

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. **13-4500**, Order No. 2976-4055US2.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. **13-4500**, Order No. 2976-4055US2.

Respectfully submitted,  
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Dated: February 26, 2007

By:



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